

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency
Policies, Administration, and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**ASSIGNED COMMISSIONER'S RULING
PROVIDING CLARIFICATION ON ENERGY EFFICIENCY SAVINGS ISSUES
ASSOCIATED WITH THE 2006-2008 PROGRAM CYCLE**

Summary

Per Ordering Paragraph 5 of Decision (D.) 04-09-060, I am providing further direction and clarification related to the program year (PY) 2006-PY2008 program cycle. More specifically, Administrative Law Judge (ALJ) Gottstein and I believe that further guidance is needed on how program savings accomplishments should be considered and presented relative to established goals in the PY2006-PY2008 program applications, due on June 1, 2005.

Today's ruling clarifies the following:

- Program administrators¹ are not required to present program plans that meet or exceed each *annual* goal established for program years (PY) 2006-2008, as long as the program plans meet or exceed the *cumulative* goal established for 2008. As described in this ruling, the program administrators may provide justification for "discounting" the specific

¹ Per the administrative structure adopted in D.05-05-055, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and Southern California Gas Company will resume the lead role for energy efficiency program administration within their service territories. I refer to these utilities collectively as "program administrators" or "the utilities" throughout this ruling

annual goals against which program accomplishments will be measured, in order to reflect the exclusion of pre-2006 commitments.

- During the process of developing future protocols for measuring savings associated with codes and standards advocacy, Joint Staff will also review the historical studies of savings attributable to the 2002 and 2003 codes and standards advocacy work. Based on that review, Joint Staff will make recommendations on (1) what level of savings should be attributed to those activities for resource planning purposes, and (2) whether the Commission should revisit the issue of counting those savings towards the goals established for PY2006-PY2008. After obtaining public comment, the Commission will consider Joint Staff's recommendation during the PY2006-PY2008 program planning process.
- It is the responsibility of each utility to ensure that the actual chronological record of energy savings from their programs on an "actual installations" basis is provided to both the utility resource planners and other parties working on producing accurate forecasts of future demand.

Background

Over the course of the last few weeks, it has come to my attention that there is some confusion on how savings from previously funded energy efficiency programs in program years 2004 and 2005 should be considered and presented in the program administrators' June 1 program plan applications. This issue falls into two general categories:

1. Accounting for commitments to engage customers in energy efficiency programs that result in actual installations and associated savings during the PY2006-PY2008 timeframe. Program commitments may precede actual installations and associated savings by one or more program years in several types of programs, such as the Standard Performance Contracting or New Construction programs.

2. Assigning energy efficiency savings to advocacy efforts for construction and appliance codes and standards² that result in higher efficiency standards being adopted. Advocacy work in support of new standards for new construction and appliances may take place (and be funded) several years before the new efficiency standards take effect.

In D.04-09-060, the Commission directed that only savings from “actual” installations from program activities (Issue #1) would count towards the savings goals, beginning in PY 2006 and beyond. This represented a departure from prior accounting practices, where savings from both actual installations and program commitments were counted towards program achievements for a particular program year, even if the savings from those commitments would not actually occur until a later program year when the measures were installed. However, the Commission was silent on how to transition from the old accounting approach to the new one during this upcoming PY2006-PY2008 program cycle. Moreover, the Commission did not address the accounting for savings associated with codes and standards advocacy programs, since no savings had been quantified or attributed to these activities in the past.

In D.05-04-051, the Commission further clarified how to transition from the “actual and commitments” accounting approach to the “actuals only” accounting

² The California Energy Commission (CEC) updates its building and appliance standards once every four years. During 2002 and 2003 utility consultants from the codes and standards programs provided substantial analysis and testimony to support the inclusion of specific measures in the new 2005 building standards scheduled to take effect in October of 2005 and the appliance standards that will take effect in 2006. Work on codes and standards advocacy during 2004 was directed towards the next round of standards for the 2008/2009 timeframe.

approach, and included various findings of facts, conclusions of law and ordering paragraphs that directly relate to the issues discussed above:

Findings of Fact

36. Counting only the installations in a given year in calculating the performance basis, regardless of the year in which any given installation was funded, is consistent with the approach we adopted in D.04-09-060 for the way the IOUs should account for progress towards adopted savings goals. Moreover, this approach avoids the need for an additional true-up process (between commitments and actual installations), thereby allowing for a more timely calculation of performance basis for a given program cycle. However, there are important transition issues to address in moving from counting “commitments and actuals” to “actuals only.”
37. Allowing IOUs to include savings realized in 2006 and beyond from standard performance contracting or new construction programs from commitments made before 2006 would “double count” the savings accomplishments from those programs.
38. Since the Codes and Standards Advocacy program did not have energy savings targets tied to it in the past, the most expedient way to transition its performance basis calculation is to start afresh beginning in PY 2006. This will circumvent the need to trace back past case study analyses and attributing savings to these studies, and will ensure that the case study analyses conducted for this program are developed in accordance with adopted protocols. Moreover, this approach avoids any potential inconsistency between the year in which program investments are made and are considered in calculating performance basis, and the cessation of the shareholder earnings under the prior energy efficiency policy rules.
39. On a prospective basis (for program year 2006 and beyond), to ensure that Codes and Standards Advocacy program activities receive proper emphasis in the portfolio of programs, it is important to further develop the performance basis and associated EM&V protocols for estimating the savings associated with this program. Joint Staff, with input from technical experts and the public, should move forward on this effort in the coming months, as it develops the EM&V submittals described in Section 6 of this decision.

40. For the reasons discussed in this decision, the transition approach adopted today for moving from counting commitments and actuals to counting actuals alone should not adversely affect the IOUs' ability to develop a portfolio of programs that will meet or exceed our adopted savings goals.
41. Reporting and tracking both installations and commitments for each program year will provide useful information for resource planning purposes and enable us to link program activities with a particular funding cycle, as needed.
42. In addition, it is reasonable to consider further whether the Codes and Standards Advocacy program should be reclassified as a resource program, as discussed in this decision. If acceptable EM&V protocols for estimating and verifying the savings from this program can be developed and approved during the development of EM&V protocols in the coming months, the IOUs should be allowed to begin counting the savings from these programs towards savings goals during the PY2006-PY2008 program cycle.

Conclusion of Law

3. To transition effectively from counting savings from "commitments and actuals" to "actuals only" towards the adopted savings goals and in calculating the performance basis, savings resulting from program commitments or (in the case of Codes and Standards Advocacy program investments) made prior to 2006 should not be counted towards the savings goals established for 2006 and beyond. The language in D.04-09-060 should be clarified to address this transition.

Ordering Paragraphs

17. In order to address the transition issues discussed in this decision, the language of the first full paragraph on page 33 of Decision (D.) 04-09-060 shall be modified as follows (deletions are noted in ~~strikeout~~; additions in *italics*):

"In response to comments on the draft decision, we clarify that only actual installations should be counted towards these goals, and not commitments, *with the exception discussed below*. That means, for example, that the savings reported for ~~PY2006~~ *PY2008* will reflect measures actually installed during calendar year ~~2006~~ *2008* (January through December),

regardless of whether the commitments to install those measures were made in ~~PY2006-PY2008~~ or in prior program year(s). *However, if we allow the IOUs to include savings realized in 2006 and beyond from program commitments made before 2006, we would be “double counting” those savings. This is because the savings from these commitments have already been counted and included in program accomplishments in the years in which those commitments were made. Therefore, in order to avoid double-counting during the transition from counting commitments plus actual installations to counting only actual installations, we will not count towards the savings goals any actual installations for 2006 and beyond that are the result of commitments made prior to 2006.”*

Discussion

With regard to Issue #1, the program administrators have inquired through phone communications and emails whether savings acquired from funding commitments made during program years 2004 and 2005 should be counted toward 2006 program savings goals if those commitments result in actual installations and savings in 2006. They have also inquired whether, in the alternative, the savings goals for PY2006-PY2008 should be adjusted downwards to address this issue.

As previously noted, the Commission found in D.05-04-051 that allowing the utilities to include savings realized in 2006 and beyond from standard performance contracting or new construction programs from commitments made before 2006 would “double count” the savings accomplishments from those programs. However, at the same time, the Commission recognized that the analysis conducted by Joint Staff to develop its recommendations for the 2006-2008 savings goals was based on a “commitments and actuals” accounting basis.³

³ D.05-05-051, *mimeo.*, p. 58.

More specifically, Joint Staff's savings goal calculations were based on past program effectiveness (kWh/dollar) factors that included commitments from both new construction and retrofit applications. These calculations were also considered in the context of the "economic potential" for savings from energy efficiency developed from the savings potential studies.

After consulting with lead staff on the savings goals analysis, both ALJ Gottstein and I believe that changing the accounting to "actuals only" will materially affect the ability of program administrators to reach near term annual savings goals (particularly in 2006 and 2007), since they can no longer count the installations and associated savings from pre-2006 commitments as part of their program achievements. This is a short-term transition issue, and not a long-term problem, because commitments made in 2006 and 2007 for both retrofits and new construction programs will become "actuals" in the program years that follow, thereby assisting in the achievement of the adopted cumulative goals for later years. Moreover, the savings goals updating process that will occur in time for the PY2009-PY2011 program cycle will reflect the "actuals only" accounting practice adopted in D.04-09-060.

My objective throughout this process is to give the utilities a reasonable opportunity to make the transitions in these accounting rules without materially affecting their ability to reach the goals. I believe that the Commission clearly articulated this same objective when it stated in D.04-09-060, and reiterated in D.05-04-051:

"...there may be some differences between the near-term numerical goals and the savings levels associated with the program portfolios developed during the upcoming PY2006-PY2008 program cycle. Accordingly, if such differences exist, the IOUs should 'describe how the numerical goals in later years will still be met by ramping up program efforts over time, by

initiating innovative programs to improve program cost-effectiveness, or by other means.’”⁴

Therefore, I am concerned about holding the utilities to the specific annual goals during the early years of this program cycle in light of the accounting and ramping up transition issues described in D.04-09-050 and D.05-04-051. More specifically, if the utilities can demonstrate in their program plan applications that program commitments made prior to 2006 represent (for example) 15% of the savings goal established for the 2006 program year, I would accept a filing that presents savings projections for 2006 that shows that the program administrators will achieve at least 85% (based on this example) of the 2006 annual goal--*as long as the 2008 cumulative goal is met or exceeded* with the proposed program plans.

For resource planning purposes, it will be the responsibility of the each utility to ensure that the actual chronological record of energy savings from their programs on an “actual installations” basis be provided to both the utility resource planners and other parties working on producing accurate forecasts of future demand. I direct the utilities to work with Joint Staff to restate or clarify the actual savings expected from their programs for the calendar years 2003-2006 and make this available to the resource planning process. This is important because forecasters must reconcile their models with actual energy use, and the existence of savings associated with program commitments in program years (rather than the year that these commitments actually produce savings), could throw off the accuracy of any calibration efforts.

⁴ D.05-04-051, *mimeo.*, p. 59 and D.04-09-060, *mimeo.*, p. 34 and Ordering Paragraph 4b.

With regard to the treatment of pre-2006 codes and standards advocacy work (Issue #2), I note that because savings have never been attributed to this work, the Commission's direction in D.05-04-051 does not raise the accounting transition issues described above. In response to concerns raised in this proceeding, the Commission directed Energy Division and CEC staff ("Joint Staff"), with input from technical experts and the public, to develop protocols for attributing electricity and natural gas savings from codes and standards programs for future program years 2006 and beyond.⁵ However, the Commission declined to authorize program administrators to include in their PY2006-PY2008 program plans their estimates of savings associated with pre-2006 codes and advocacy work that contributed to the adoption of the new building and appliance standards effective in 2005 and 2006, respectively.⁶

Program administrators have contacted me and the CEC to strongly urge that the Commission develop a process for estimating the level of savings that can be attributed to the 2002-2003 codes and standards programs and credit them toward the 2006-2008 goals. They argue that by limiting Joint Staff's efforts to a "forward looking" approach to estimating the savings from these programs, the Commission will effectively ignore the significant value of several years of program activities that has produced real "actuals" in terms of energy savings for all ratepayers through higher building and appliance standards.

First, let me emphasize that codes and standards advocacy work has been recognized by this Commission as an essential and valuable component of the

⁵ See D.05-04-051 Findings of Fact 38, 39 and 43.

⁶ *Ibid.*, pp. 56-58, 63-64.

energy efficiency program portfolio in the past, and continues to be recognized as such in the updated program policy rules. The Commission's decision in D.05-04-051 to defer the issue of quantifying energy savings from these programs for the purpose of counting these activities towards energy efficiency goals was not intended in anyway to diminish the importance of these activities. I expect program administrators to continue to support such activities in their proposed program plans as we move forward.

ALJ Gottstein and I agree there is a need to quantify the savings from these programs for resource planning purposes without delay, irrespective of whether or not the Commission entertains any formal petitions to modify D.05-04-051 to count estimates of those savings towards the energy efficiency savings goals established for PY2006-PY2008. Our concern is that the Commission has a full record with which to reconsider this issue, should it choose to do so. To this end, I outline a process whereby the Commission can obtain a full record in the coming weeks.

More specifically, as part of the process for developing new protocols for 2006 codes and standards programs directed by D.05-04-051, I also direct Joint Staff to examine the existing historical studies for codes and standards that present estimates of savings for the 2002 and 2003 codes and standards advocacy programs that contributed to the new standards going into effect in 2005 and 2006. After this review, Joint Staff should develop an estimate of the savings from these programs for resource planning purposes. Joint Staff may utilize Energy Division's technical consultant(s) and/or draw on other technical expertise, as needed, to perform this review and to develop savings estimates (or a reasonable range of estimates) associated with this codes and standards advocacy work.

As part of this process, Joint Staff should also address the issue of whether the Commission should reconsider its determination in D.05-04-051 and count some portion of these savings estimates toward meeting the PY2006-PY2008 program goals. Joint Staff should present its savings estimates and recommendation for discussion in a public workshop before submitting its final estimates and recommendation to me and ALJ Gottstein. By either ALJ or Assigned Commissioner's ruling, Joint Staff's savings estimates and recommendation will be issued for written comment in the application docket for the PY2006-PY2008 program plans, so that the Commission may formally address Joint Staff's recommendations as it addresses those plans. Joint Staff's savings estimates and associated recommendations should be submitted to me and ALJ Gottstein as soon as possible so that the potential impacts of these savings may be considered as part of the Commission's consideration of the PY2006-PY2008 program plans. ALJ Gottstein will work with Joint Staff to modify the Evaluation, Measurement and Verification Roadmap, accordingly. In the interim, I direct the utilities to use the best estimates for savings from these programs as part of their resource planning process.

In sum, consistent with the Commission's direction in D.05-04-051, I provide further guidance to program administrators for the preparation of their June 1 applications and direct Joint Staff to gather more information on the amount of savings attributable to the codes and standards programs for further Commission consideration. Given all the work that the program administrators, their advisory groups, Joint Staff and interested parties will be undertaking in the coming weeks and months on energy efficiency issues, it is clearly not the most efficient use of parties' time to petition the full Commission to make changes to D.05-04-051 or D.04-0-060 concerning the savings measurement issues

discussed in this ruling. I believe that today's ruling provides program administrators with the further clarification they seek in order to develop their June 1, 2005 PY2006-PY2008 program applications in compliance with those decisions, and without any further modification to them at this time.

IT IS RULED that the clarifications and directions presented in today's ruling shall become effective immediately.

Dated May 11, 2005, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have this day served the attached Assigned Commissioner's Ruling Providing Clarification on Energy Efficiency Savings Issues Associated with the 2006-2008 Program Cycle on all parties of record in this proceeding or their attorneys of record by electronic mail to those who provided electronic mail addresses, and by U.S. mail to those who did not provide email addressees.

Dated May 11, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

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